

1 The Honorable Marsha J. Pechman

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8 UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

9 BOILERMAKERS NATIONAL
10 ANNUITY TRUST FUND, on behalf of
itself and all others similarly situated, et al.,

11 Plaintiffs,

12 v.

13 WAMU MORTGAGE PASS THROUGH
14 CERTIFICATES, SERIES 2006-AR1, et
al.,

15 Defendants.

Case No. C09-0037MJP

**DECLARATION OF ADAM
ZUROFSKY IN SUPPORT OF THE
RATING AGENCY DEFENDANTS'
MOTION TO DISMISS THE
AMENDED CONSOLIDATED
CLASS ACTION COMPLAINT**

16 I, Adam Zurofsky, declare under penalties of perjury pursuant to 28 U.S.C. § 1746
17 as follows:

18 1. I am a member of the New York bar and of the firm of Cahill Gordon & Reindel
19 LLP. My firm, together with Paul J. Kundtz and Gavin W. Skok of Riddell Williams P.S.,
20 serve as attorneys for Defendant The McGraw-Hill Companies, Inc. ("McGraw-Hill" or
21 "S&P") in this matter. By order of this Court dated December 23, 2009, I have been
22 granted leave to appear *pro hac vice* on behalf of McGraw-Hill. I make this declaration to
23 place before the Court certain documents obtained from public sources. The Court may
24 take judicial notice of these documents because their publication is a matter of public
25 record and cannot be reasonably questioned. I am fully familiar with the facts set forth
26 herein and make this declaration based on my personal knowledge.

1 2. On September 22, 2006, WaMu Mortgage Pass-Through Certificates, Series
2 2006-AR12 Trust filed with the Securities and Exchange Commission ("SEC") a
3 prospectus supplement. WaMu Mortgage-Pass Through Certificates, Series 2006-AR12
4 Prospectus Supp. (Sept. 22, 2006). A true and accurate copy of the relevant excerpts of
5 the document is attached hereto as Exhibit A.

6 3. On May 23, 2006, WaMu Mortgage Pass-Through Certificates, Series 2006-
7 AR5 Trust filed with the SEC a prospectus supplement. WaMu Mortgage Pass-Through
8 Certificates, Series 2006-AR5 Prospectus Supp. (May 23, 2006). A true and accurate copy
9 of the relevant excerpts of the document is attached hereto as Exhibit B.

10 4. On January 26, 2010, oral argument was held, *inter alia*, on the rating agency
11 defendants' motion to dismiss in *In re Lehman Bros. Securities and ERISA Litigation*, in
12 which Judge Lewis A. Kaplan of the Southern District of New York dismissed the claims
13 against the rating agency defendants in their entirety. Oral Argument on Defendants'
14 Motion to Dismiss, *In re Lehman Brothers Securities and ERISA Litigation*, Docket Nos.
15 09-MD-2017, 08-CV-6762 (S.D.N.Y. Jan. 26, 2010). A true and accurate copy of the
16 transcript is attached hereto as Exhibit C.


17 5. The *Lehman* case was filed on February 23, 2009 against the same rating agency
18 defendants as in this case. Consolidated Securities Class Action Complaint, *In re Lehman*
19 *Bros. Securities and ERISA Litigation*, No. 09-MD-6762, (S.D.N.Y.) (filed Feb. 23, 2009).
20 A true and accurate copy of the complaint is attached hereto as Exhibit D.

21 6. Attached hereto as Exhibit E is a true and accurate copy of the relevant excerpts
22 from S&P publications entitled "Global Credit Portal: RatingsDirect: Ratings Lowered On
23 2,183 U.S. Alt-A RMBS Classes Issued In 2006; 487 Ratings On Watch Neg" (Apr. 29,
24 2008) (*available at www.standardandpoor.com/ratingsdirect*) and "Global Credit Portal:
25 RatingsDirect: U.S. Alt-A RMBS Classes Affected By April 29, 2008, Rating Actions"
26 (Apr. 29, 2008) (*available at www.standardandpoor.com/ratingsdirect*).

7. Attached hereto as Exhibit F is a true and accurate copy of the “SEC Report on the Role and Function of Credit Rating Agencies in the Operation of the Securities Markets” dated January 2003 (*available at <http://www.sec.gov/news/studies/credratingreport0103.pdf>*).

I declare, pursuant to 28 U.S.C. § 1746, under penalty of perjury that the foregoing is true and correct.

Executed this 29th day of January, 2010 at New York, NY.


Adam Zurofsky